

1 Amend 2 cal. Code Regs. Section 18239 to read:

2 **§ 18239. Definition of Lobbyist.**

3 (a) Introduction.

4 (1) If an individual engages in direct communication, other than administrative
5 testimony, with a qualifying official for the purpose of influencing legislative or administrative
6 action on behalf of any person other than his or her employer, apply ~~Government Code section~~
7 Section 82039 and subdivision (b) of this regulation to determine if the individual is a lobbyist.

8 (2) If an individual engages in direct communication, other than administrative
9 testimony, with a qualifying official for the purpose of influencing legislative or administrative
10 action only on behalf of his or her employer, apply ~~Government Code section~~ Section 82039 and
11 subdivision (c) of this regulation to determine if the individual is a lobbyist.

12 (3) If an individual is a “placement agent” as defined in Section 82047.3, he or she is a
13 lobbyist for purposes of the Act, regardless of the definitions in subdivisions (b) through (d),
14 below.

15 (b) A lobbyist is an individual who receives or becomes entitled to receive \$2,000 or
16 more in compensation in any calendar month for engaging in direct communication, other than
17 administrative testimony, with one or more qualifying officials for the purpose of influencing
18 legislative or administrative action.

19 (c) A lobbyist is an individual who spends one-third or more of the time, in any calendar
20 month, for which he or she receives compensation from his or her employer, engaging in direct
21 communication, other than administrative testimony, with one or more qualifying officials for
22 the purpose of influencing legislative or administrative action.

23 (d) Definitions.

1 (1) "Administrative testimony" means either of the following:

2 (A) Influencing or attempting to influence administrative action by acting as counsel in,
3 appearing as a witness in, or providing written submissions, including answers to inquiries,
4 ~~which~~ that become part of the record of any regulatory or administrative agency proceeding:

5 (i) ~~Which~~ That is conducted as an open public hearing for which public notice is given;

6 (ii) Of which a record is created in a manner ~~which~~ that makes possible the creation of a
7 transcript; and

8 (iii) ~~With respect to which~~ Where full public access is provided to ~~such~~ the record or
9 transcript and to all written material ~~which~~ that is submitted ~~to become~~ as part of the record.

10 (B) Any communication made at a public hearing, public workshop, public forum, or
11 included in the official record of any proceeding, as defined in ~~Government Code~~ Section
12 82002(b) or (c), before the California Public Utilities Commission.

13 (2) "Compensation" means any economic consideration, other than reimbursement for
14 reasonable travel expenses, i.e., expenses for transportation plus a reasonable sum for food and
15 lodging.

16 (3) "Direct communication" means appearing as a witness before, talking to (either by
17 telephone or in person), corresponding with, or answering questions or inquiries from, any
18 qualifying official, either personally or through an agent who acts under one's direct supervision,
19 control, or direction.

20 (A) Direct communication does not include any request for or provision of purely
21 technical data or analysis to an administrative agency by a person who does not otherwise
22 engage in direct communication for the purpose of influencing legislative or administrative
23 action.

1 (B) For the purpose of determining whether an individual qualifies as a lobbyist pursuant
2 to subdivisions (b) or (c), an individual does not engage in "direct communication" when he or
3 she meets or speaks with a qualifying official in the company of a registered lobbyist retained by
4 the individual or individual's employer or by a bona fide trade association or membership
5 organization of which the individual or individual's employer is a bona fide member.

6 (4) "Influencing legislative or administrative action" means communicating directly or
7 taking any other action for the principal purpose of supporting, promoting, influencing,
8 modifying, opposing, delaying, or advancing any legislative or administrative action.

9 (5) "Qualifying official" means:

10 (A) Any elected state official;

11 (B) Any legislative official;

12 (C) Any appointed, elected or statutory member or director of any state agency;

13 (D) Any staff member of any state agency who makes direct recommendations to the
14 persons listed in subdivision (5)(C) of this subdivision, or who has decision-making authority
15 concerning such recommendations.

16 NOTE: Authority cited: Section 83112, Government Code. Reference: Section 82039,
17 Government Code.